

PETITION UNDER 28 U.S.C. § 2254 FOR WRIT OF
HABEAS CORPUS BY A PERSON IN STATE CUSTODY

03-20 0251

RECEIVED

United States District Court		District	
Name (under which you were convicted): FREDERICK E. BRAXTON		Docket or Case No.: 2007-A-732	MAR 25 2020
Place of Confinement: MORGAN COUNTY CORRECTIONAL COMPLEX		Prisoner No.: 332561	U.S. District Court Middle District of TN
Petitioner (include the name under which you were convicted) FREDERICK E. BRAXTON		Respondent (authorized person having custody of petitioner) STATE OF TENNESSEE	
The Attorney General of the State of TENNESSEE			

PETITION

1. (a) Name and location of court that entered the judgment of conviction you are challenging: DAVIDSON COUNTY CRIMINAL COURT, AT NASHVILLE, DIV. I

(b) Criminal docket or case number (if you know): 2007-A-732

2. (a) Date of the judgment of conviction (if you know): 10-13-2008

(b) Date of sentencing: 11-24-2008

3. Length of sentence: 19 YEARS @ 3590

4. In this case, were you convicted on more than one count or of more than one crime? Yes ☐ No ☒

5. Identify all crimes of which you were convicted and sentenced in this case: _____

6. (a) What was your plea? (Check one)

(1) Not guilty ☒

(3) Nolo contendere (no contest) ☐

(2) Guilty ☐

(4) Insanity plea ☐

(b) If you entered a guilty plea to one count or charge and a not guilty plea to another count or charge, what did you plead guilty to and what did you plead not guilty to? _____

(c) If you went to trial, what kind of trial did you have? (Check one)

Jury ☒ Judge only ☐

7. Did you testify at a pretrial hearing, trial, or a post-trial hearing?

Yes ☐ No ☒

8. Did you appeal from the judgment of conviction?

Yes ☒ No ☐

9. If you did appeal, answer the following:

(a) Name of court: COURT OF CRIMINAL APPEALS

(b) Docket or case number (if you know): 2009-A-732, 2007-A-732

(c) Result: APPLICATION DENIED

(d) Date of result (if you know): _____

(e) Citation to the case (if you know): M2009-01735-CCA-R3-CD

(f) Grounds raised: EVIDENCE INSUFFICIENT TO SUSTAIN JURY'S VERDICT OF GUILT; COURT ERRED IN ALLOWING STATES' WITNESS WAYNE MILLER TO TESTIFY MR. BRAXTON WAS IN JAIL ON UNRELATED CHARGES BEFORE 2.15.2006, TRIAL COUNSEL WAS INEFFECTIVE FOR FAILING TO REVIEW, OR ISSUE SUBPOENAS FOR THE (6) WITNESSES LISTED ON NOTICE OF ALIBI WITNESSES FILED BY PREVIOUS ATTORNEY; COURT ERRED IN NOT ALLOWING DEFENSE TO CROSS EXAMINE JAMES H. WILLIAMS REGARDING PREVIOUS INCIDENTS -

(g) Did you seek further review by a higher state court? Yes ☒ No ☐

If yes, answer the following:

(1) Name of court: TENNESSEE COURT OF CRIMINAL APPEALS

(2) Docket or case number (if you know): M2009-01735-CCA-R3-CD / 2009-A-732

(3) Result: APPLICATION DENIED

(4) Date of result (if you know): _____

(5) Citation to the case (if you know): M2009-01735-CCA-R3-CD

(6) Grounds raised: WHETHER WHETHER THE COURT ERRED IN ALLOWING WAYNE MILLER, RECORDS TECHNICIAN FOR THE DAVIDSON COUNTY SHERIFF'S OFFICE, REBUTAL TESTIMONY THAT THE DEFENDANT BRAXTON WAS IN CUSTODY OF THE SHERIFF'S OFFICE FROM FEB 6th THROUGH FEB. 13th 2006

(h) Did you file a petition for certiorari in the United States Supreme Court? Yes ☐ No ☒

If yes, answer the following:

(1) Docket or case number (if you know): _____

(2) Result: _____

(3) Date of result (if you know): _____

(4) Citation to the case (if you know): _____

10. Other than the direct appeals listed above, have you previously filed any other petitions, applications, or motions concerning this judgment of conviction in any state court?

Yes ☐ No ☒

11. If your answer to Question 10 was "Yes," give the following information:

(a) (1) Name of court: _____

(2) Docket or case number (if you know): _____

(3) Date of filing (if you know): _____

(4) Nature of the proceeding: _____

(5) Grounds raised: _____

(6) Did you receive a hearing where evidence was given on your petition, application, or motion? Yes ☐ No ☒

(7) Result: _____

(8) Date of result (if you know): _____

(b) If you filed any second petition, application, or motion, give the same information:

(1) Name of court: _____

(2) Docket or case number (if you know): _____

(3) Date of filing (if you know): _____

(4) Nature of the proceeding: _____

(5) Grounds raised: _____

(6) Did you receive a hearing where evidence was given on your petition, application, or motion? Yes ☐ No ☒

(7) Result: _____

(8) Date of result (if you know): _____

(c) If you filed any third petition, application, or motion, give the same information:

(1) Name of court: _____

(2) Docket or case number (if you know): _____

(3) Date of filing (if you know): _____

(4) Nature of the proceeding: _____

(5) Grounds raised: _____

(6) Did you receive a hearing where evidence was given on your petition, application, or motion? Yes ☐ No ☒

(7) Result: _____

(8) Date of result (if you know): _____

(d) Did you appeal to the highest state court having jurisdiction over the action taken on your petition, application, or motion?

(1) First petition: Yes ☐ No ☐

(2) Second petition: Yes ☐ No ☐

(3) Third petition: Yes ☐ No ☐

(e) If you did not appeal to the highest state court having jurisdiction, explain why you did not:

I WAS NOVICE TO THE PROCESS SO I PUT MY TRUST IN AN OLD LAWYER
NAMED GEORGE J. DUZANE #6461, MY FAMILY PAID HIM \$8500 TO HANDLE
THE ENTIRE PROCESS BUT AFTER HE GOT PAID HE WITHDREW. MY FAMILY IS
STILL HURTING.

12. For this petition, state every ground on which you claim that you are being held in violation of the Constitution, laws, or treaties of the United States. Attach additional pages if you have more than four grounds. State the facts supporting each ground.

CAUTION: To proceed in the federal court, you must ordinarily first exhaust (use up) your available state-court remedies on each ground on which you request action by the federal court. Also, if you fail to set forth all the grounds in this petition, you may be barred from presenting additional grounds at a later date.

GROUND ONE: ACTUAL ~~INN~~CENCE INNOCENCE

(a) Supporting facts (Do not argue or cite law. Just state the specific facts that support your claim.):

I WAS NOT THERE, I HAD (6) WITNESSES AND STILL HAVE (6) WITNESSES TO PROVE MY WHEREABOUTS; MR JAMES H. WILLIAMS HAD SEVERAL RUN-INS WITH MY CO-DEFENDANT THAT I WAS ALSO NOT THERE; MR. WILLIAMS HAS DONE NOTHING TO ME TO MAKE ME WANT TO ATTEMPT TO KILL HIM; MR. WILLIAMS IS A KNOWN MONSTER IN THE AREA WE ARE FROM AND HAS SHOT AND ROBBED SEVERAL GUYS, HE WAS SHOT 9 TIMES IN 1997 DURING A FAILED HOME INVASION OF NASHVILLE KINGPINS (DARRYL & SHAUN MCQUIDDY) A BOUNTY WAS PLACED ON HIS HEAD SINCE 1997

(b) If you did not exhaust your state remedies on Ground One, explain why: _____

(c) Direct Appeal of Ground One:

(1) If you appealed from the judgment of conviction, did you raise this issue?

Yes ☒ No ☐

(2) If you did not raise this issue in your direct appeal, explain why: _____

(d) Post-Conviction Proceedings:

(1) Did you raise this issue through a post-conviction motion or petition for habeas corpus in a state trial court? Yes ☐ No ☒

(2) If your answer to Question (d)(1) is "Yes," state:

Type of motion or petition: _____

Name and location of the court where the motion or petition was filed: _____

Docket or case number (if you know): _____

Date of the court's decision: _____

Result (attach a copy of the court's opinion or order, if available): _____

(3) Did you receive a hearing on your motion or petition?

Yes ☐ No ☒

(4) Did you appeal from the denial of your motion or petition?

Yes ☐ No ☒

(5) If your answer to Question (d)(4) is "Yes," did you raise this issue in the appeal?

Yes ☐ No ☐

(6) If your answer to Question (d)(4) is "Yes," state:

Name and location of the court where the appeal was filed: _____

Docket or case number (if you know): _____

Date of the court's decision: _____

Result (attach a copy of the court's opinion or order, if available): _____

(7) If your answer to Question (d)(4) or Question (d)(5) is "No," explain why you did not raise this issue: AS I STATED; I PUT MY ALL INTO THE WORK OF GEORGE J. DUZANE #6461 AFTER HE GOT HIS ENTIRE \$8,500 HE WITHDREW. HE STARTED A PETTY ARGUMENT WITH ME AT C.B.C.X. I FILED A COMPLAINT WITH MRS. SHARPE (BPR) ON HIS BEHAVIOR, I WENT INTO A DARK PLACE BECAUSE MY FAMILY WENT DOWN AFTER PAYING HIM.

(e) Other Remedies: Describe any other procedures (such as habeas corpus, administrative remedies, etc.) that you have used to exhaust your state remedies on Ground One: _____

GROUND TWO: INSUFFICIENT EVIDENCE TO SUPPORT CONVICTION

(a) Supporting facts (Do not argue or cite law. Just state the specific facts that support your claim.):

THERE WAS NOTHING TO PUT ME WITH (HARRIS), NOR WAS THERE A PERSON TO IDENTIFY ME IN THAT CAR. HARRIS AND MULTIPLE GUYS JUMPED OUT ON WILLIAMS 3 OR MORE TIMES SHOOTING AND WILLIAMS TOLD THE COURTS THAT I WAS NOT PRESENT ON EITHER INCIDENT. DET. TERRANCE BRADLEY DID NO INVESTIGATING.

(b) If you did not exhaust your state remedies on Ground Two, explain why: AFTER GEORGE J. -
DUZANE #6461 RAN OFF ON ME AND MY FAMILY I DIDNT KNOW WHAT TO DO
OR WHERE TO GO FROM THERE.

(c) Direct Appeal of Ground Two:

(1) If you appealed from the judgment of conviction, did you raise this issue?

Yes ☒ No ☐

(2) If you did not raise this issue in your direct appeal, explain why: _____

(d) Post-Conviction Proceedings:

(1) Did you raise this issue through a post-conviction motion or petition for habeas corpus in a state trial court?

Yes ☐ No ☒

(2) If your answer to Question (d)(1) is "Yes," state:

Type of motion or petition: _____

Name and location of the court where the motion or petition was filed: _____

Docket or case number (if you know): _____

Date of the court's decision: _____

Result (attach a copy of the court's opinion or order, if available): _____

(3) Did you receive a hearing on your motion or petition?

Yes ☐ No ☒

(4) Did you appeal from the denial of your motion or petition?

Yes ☐ No ☒

(5) If your answer to Question (d)(4) is "Yes," did you raise this issue in the appeal?

Yes ☐ No ☒

(6) If your answer to Question (d)(4) is "Yes," state:

Name and location of the court where the appeal was filed: _____

Docket or case number (if you know): _____

Date of the court's decision: _____

Result (attach a copy of the court's opinion or order, if available): _____

(7) If your answer to Question (d)(4) or Question (d)(5) is "No," explain why you did not raise this issue: AFTER GEORGE J. DUZANE FILED A FEW BRIEFS AND I WAS DENIED I ASSUMED THAT WAS IT.

(e) **Other Remedies:** Describe any other procedures (such as habeas corpus, administrative remedies, etc.) that you have used to exhaust your state remedies on Ground Two: _____

GROUND THREE: PLAIN ERROR

(a) Supporting facts (Do not argue or cite law. Just state the specific facts that support your claim.):
WHEN THE COURTS ALLOWED WAYNE MILLER TO TESTIFY IN REBUTIAL THAT I WAS IN JAIL ON FEB 6th UNTIL FEB 13th THAT STATEMENT ALONE INFLAMMED THE JURY.

(b) If you did not exhaust your state remedies on Ground Three, explain why: _____

(c) **Direct Appeal of Ground Three:**

(1) If you appealed from the judgment of conviction, did you raise this issue?

Yes ☒ No ☐

(2) If you did not raise this issue in your direct appeal, explain why: _____

(d) Post-Conviction Proceedings:

(1) Did you raise this issue through a post-conviction motion or petition for habeas corpus in a state trial court? Yes ☐ No ☒

(2) If your answer to Question (d)(1) is "Yes," state:

Type of motion or petition: _____

Name and location of the court where the motion or petition was filed: _____

Docket or case number (if you know): _____

Date of the court's decision: _____

Result (attach a copy of the court's opinion or order, if available): _____

(3) Did you receive a hearing on your motion or petition?

Yes ☐ No ☒

(4) Did you appeal from the denial of your motion or petition?

Yes ☐ No ☒

(5) If your answer to Question (d)(4) is "Yes," did you raise this issue in the appeal?

Yes ☐ No ☒

(6) If your answer to Question (d)(4) is "Yes," state:

Name and location of the court where the appeal was filed: _____

Docket or case number (if you know): _____

Date of the court's decision: _____

Result (attach a copy of the court's opinion or order, if available): _____

(7) If your answer to Question (d)(4) or Question (d)(5) is "No," explain why you did not raise this

issue: BECAUSE AFTER I WAS DENIED ALL TIMES I THOUGHT THAT I HAD NO
OTHER OUTLET, GEORGE J. DUZANE LED ME ON JUST TO GET MY FAMILY'S
MONEY.

(e) **Other Remedies:** Describe any other procedures (such as habeas corpus, administrative remedies, etc.) that you have used to exhaust your state remedies on Ground Three: _____

GROUND FOUR: DUE PROCESS

(a) Supporting facts (Do not argue or cite law. Just state the specific facts that support your claim.):

A REVIEWING COURT SHOULD HAVE BEEN ABLE TO DECLARE A BELIEF
THAT IT WAS A HARMLESS ERROR BEYOND A REASONABLE DOUBT.

(b) If you did not exhaust your state remedies on Ground Four, explain why: I WAS LEARNING
THE HARD WAY AS I WENT, BUT I NEVER STOPPED FIGHTING THAT'S WHY
IM WRITING NOW.

(c) Direct Appeal of Ground Four:

(1) If you appealed from the judgment of conviction, did you raise this issue?

Yes ☐ No ☒

(2) If you did not raise this issue in your direct appeal, explain why: I WAS A NOVICE
TO THE INS & OUTS OF THE APPEAL & POST CONVICTION PROCESS.

(d) Post-Conviction Proceedings:

(1) Did you raise this issue through a post-conviction motion or petition for habeas corpus in a state trial court? Yes ☐ No ☒

(2) If your answer to Question (d)(1) is "Yes," state:

Type of motion or petition: _____

Name and location of the court where the motion or petition was filed: _____

Docket or case number (if you know): _____

Date of the court's decision: _____

Result (attach a copy of the court's opinion or order, if available): _____

(3) Did you receive a hearing on your motion or petition?

Yes ☐ No ☒

(4) Did you appeal from the denial of your motion or petition?

Yes ☐ No ☒

(5) If your answer to Question (d)(4) is "Yes," did you raise this issue in the appeal?

Yes ☐ No ☒

(6) If your answer to Question (d)(4) is "Yes," state:

Name and location of the court where the appeal was filed: _____

Docket or case number (if you know): _____

Date of the court's decision: _____

Result (attach a copy of the court's opinion or order, if available): _____

(7) If your answer to Question (d)(4) or Question (d)(5) is "No," explain why you did not raise this issue: IM JUST NOW LEARNING ABOUT ALOT WHEN IT COMES TO THIS LAW AND APPEAL PROCESSES.

(e) **Other Remedies:** Describe any other procedures (such as habeas corpus, administrative remedies, etc.) that you have used to exhaust your state remedies on Ground Four: _____

13. Please answer these additional questions about the petition you are filing:

(a) Have all grounds for relief that you have raised in this petition been presented to the highest state court having jurisdiction? Yes ☐ No ☒

If your answer is "No," state which grounds have not been so presented and give your reason(s) for not presenting them: DE DUE PROCESS; ACTUAL INNOCENCE;
PLAIN ERROR; INSUFFICIENT EVIDENCE

(b) Is there any ground in this petition that has not been presented in some state or federal court? If so, which ground or grounds have not been presented, and state your reasons for not presenting them: _____

14. Have you previously filed any type of petition, application, or motion in a federal court regarding the conviction that you challenge in this petition? Yes ☐ No ☒

If "Yes," state the name and location of the court, the docket or case number, the type of proceeding, the issues raised, the date of the court's decision, and the result for each petition, application, or motion filed. Attach a copy of any court opinion or order, if available. _____

15. Do you have any petition or appeal now pending (filed and not decided yet) in any court, either state or federal, for the judgment you are challenging? Yes ☒ No ☐

If "Yes," state the name and location of the court, the docket or case number, the type of proceeding, and the issues raised. DAVIDSON COUNTY CRIMINAL COURT, AT NASHVILLE
DIV. I, CCA No: M2018-00443-CCA-23-ECN JAMES H. WILLIAMS RECANTED
HIS 2008 TRIAL TESTIMONY NEARLY 10 YEARS LATER

NO: 18-7260

16. Give the name and address, if you know, of each attorney who represented you in the following stages of the judgment you are challenging:

(a) At preliminary hearing: DONALD SWANGER OR SWINGER

(b) At arraignment and plea: _____

(c) At trial: LEE SPROUSE ; WHO WAS DISBARRED AFTER HE LOST MY TRIAL.
MONTHS LATER.

(d) At sentencing: LEE SPROUSE

(e) On appeal: ASHLEY PRESTON (PD) GEORGE J. DIZANE #6461 (Ret.)

(f) In any post-conviction proceeding: GREGORY D. SMITH #013420

(g) On appeal from any ruling against you in a post-conviction proceeding: _____

17. Do you have any future sentence to serve after you complete the sentence for the judgment that you are challenging? Yes ☒ No ☐

(a) If so, give name and location of court that imposed the other sentence you will serve in the future: CRIMINAL COURT OF DAVIDSON COUNTY AT NASHVILLE, DIV. VII

(b) Give the date the other sentence was imposed: APRIL 13th 2010

(c) Give the length of the other sentence: 15 YEARS AT 100% SCHOOL ZONE UNDER .5

(d) Have you filed, or do you plan to file, any petition that challenges the judgment or sentence to be served in the future? Yes ☒ No ☐

18. TIMELINESS OF PETITION: If your judgment of conviction became final over one year ago, you must explain why the one-year statute of limitations as contained in 28 U.S.C. § 2244(d) does not bar your petition.* AS I STATED IN THE BEGINNING, THIS HAS BEEN A LONG AND DRAWN OUT FIGHT TO REGAIN MY FREEDOM BACK AND IM STILL LEARNING AFTER NEARLY 12 YEARS OF INCARCERATION FOR A CRIME I DIDNT COMMIT NOR HAD ANYTHING TO DO WITH. THERE WAS NO REAL HELP OTHER THAN GOD'S FOOTPRINTS IN THE SAND THAT HELD ME WHEN I THOUGHT I COULDN'T GO ANY FURTHER. IN OCTOBER 2017 JAMES H. WILLIAMS JR. CAME FORTH, AND AT A ERROR CORIM NOBIS HEARING HE STATED THAT I DID NOT SHOOT HIM, BUT HE TOLD THE JUDGE THAT IT WAS (HARRIS) AND SOMEONE WHO HE (JAMES) HAD SHOT PRIOR AND THEY HAD SINCE MADE PEACE. I COULDN'T TELL JUDGE STEVE DOZIER WHO SHOT (JAMES) BECAUSE I DIDN'T KNOW WHO IT WAS AND ALSO I HAD NOTHING TO DO WITH EITHER SITUATION. PLEASE LOOK AT THIS PETITION IN LIGHT MOST FAVORABLE TO THE TRUTH AND GET THIS SENTENCE OF MY BACK. THANKS & GOD BLESS!

* The Antiterrorism and Effective Death Penalty Act of 1996 ("AEDPA") as contained in 28 U.S.C. § 2244(d) provides in part that:

- (1) A one-year period of limitation shall apply to an application for a writ of habeas corpus by a person in custody pursuant to the judgment of a State court. The limitation period shall run from the latest of —

(continued...)

Therefore, petitioner asks that the Court grant the following relief: I ASKED THAT THE
COURTS LOOK AT THE FACTS AND THE EVIDENCE AND VINDICATE ME
FROM THIS SENTENCE.

or any other relief to which petitioner may be entitled.

 Signature of Attorney (if any)

I declare (or certify, verify, or state) under penalty of perjury that the foregoing is true and correct
 and that this Petition for Writ of Habeas Corpus was placed in the prison mailing system on
MARCH 20th 2020 (month, date, year).

Executed (signed) on MARCH 20th 2020 (date).

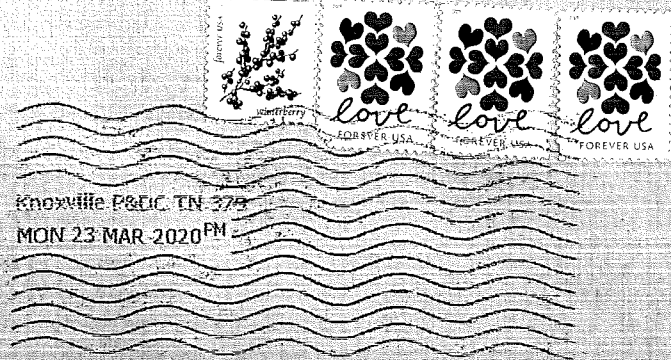
Frederick E. Braxton # 332561

Signature of Petitioner

*(...continued)

- (A) the date on which the judgment became final by the conclusion of direct review or the expiration of the time for seeking such review;
 - (B) the date on which the impediment to filing an application created by State action in violation of the Constitution or laws of the United States is removed, if the applicant was prevented from filing by such state action;
 - (C) the date on which the constitutional right asserted was initially recognized by the Supreme Court, if the right has been newly recognized by the Supreme Court and made retroactively applicable to cases on collateral review; or
 - (D) the date on which the factual predicate of the claim or claims presented could have been discovered through the exercise of due diligence.
- (2) The time during which a properly filed application for State post-conviction or other collateral review with respect to the pertinent judgment or claim is pending shall not be counted toward any period of limitation under this subsection.

FREDERICK BRAXTON #332561
M.C.C.X. 22C 113
P.O. Box 2090
Wartburg, TN. 37887



CLERK of
U.S. DISTRICT COURT
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